

less to enforce and which could never in any other way be absolutely safeguarded against a desperate and irresponsible enemy.

Canal Tolls.

Another question which arises for consideration and possible legislation is the question of tolls in the canal. This question is necessarily affected by the probable tonnage which will go through the canal. It is all a matter of estimate, but one of the government commission in 1900 investigated the question and made a report.

He concluded that the total tonnage of the vessels employed in commerce that could use the isthmian canal in 1914 would amount to 6,843,805 tons net register and that this traffic would increase 25.1 per cent per decade, that it was not probable that all the commerce included in the totals would at once abandon the routes at present followed and make use of the new canal and that it might take some time, perhaps two years, to readjust trade with reference to the new conditions which the canal would establish.

He did not include, moreover, the tonnage of war vessels, although it is to be inferred that such vessels would make considerable use of the canal. In the matter of tolls he reached the conclusion that a dollar a net ton would not drive business away from the canal, but that a higher rate would do so.

In determining what the tolls should be we certainly ought not to insist that for a good many years to come they should amount to enough to pay the interest on the investment of \$400,000,000 which the United States has made in the construction of the canal. We ought not to do this, first, because the benefits to be derived by the United States from this expenditure are not to be measured solely by a return upon the investment. If it were, then the construction might well have been left to private enterprise.

It was because an adequate return upon the money invested could not be expected immediately or in the near future and because there were peculiar political advantages to be derived from the construction of the canal that it necessarily fell to the government to advance the money and perform the work.

In addition to the benefit to our naval strength, the canal greatly increases the trade facilities of the United States. It will undoubtedly cheapen the rates of transportation in all freight between the eastern and western seaboard, and it will greatly increase that trade by reason of the reduction in its cost. Then if we are to have a world canal and if we are anxious that the routes of the world's trade shall be through the Panama canal we must recognize that we have an active competitor in the Suez canal.

Then, too, there are other means of crossing the isthmus—by the Tehuantepec railroad and by other railroads and freight routes in Central America to the Atlantic side.

In all these cases the question whether the Panama canal is to be used and its tonnage increased will be determined mainly by the charge for its use. My own impression is that the tolls ought not to exceed \$1 per net ton. On Jan. 1, 1911, the tolls in the Suez canal are to be 7 francs and 25 centimes for one net ton by Suez canal measurement, which is a modification of Danube measurement.

A dollar a ton will secure under the figures above a gross income from the Panama canal of nearly \$7,000,000.

The cost of maintenance and operation is estimated to exceed \$3,000,000. Ultimately, of course, with the normal increase in trade, the income will approximate the interest charges upon the investment.

On the whole, I should recommend that within certain limits the president be authorized to fix the tolls of the canal and adjust them to what seems to be commercially necessary.

The inquiries already made of the chief engineer of the canal show that the present consideration of this question is necessary in order that the commerce of the world may have time to adjust itself to the new conditions resulting from the opening of this new highway.

The next question that arises is as to the maintenance, management and general control of the canal after its completion. It should be premised that it is an essential part of our navy establishment to have the coal, oil and other ship supplies, a drydock and repair shops conveniently located with reference to naval vessels passing through the canal.

Now, if the government for naval purposes is to undertake to furnish these conveniences to the navy, and they are conveniences equally required by commercial vessels, there would seem to be strong reasons why the government should take over and include in its management the furnishing not only to the navy, but to the public, drydock and repair shop facilities and the sale of coal, oil and other ship supplies.

The maintenance of a lock canal of this enormous size in a sparsely populated country and in the tropics, where the danger from disease is always present, requires a large and complete and well trained organization with full police powers, exercising the utmost care. The visitor to the canal who is impressed with the wonderful freedom from tropical diseases on the isthmus must not be misled as to the constant vigilance that is needed to preserve this condition.

The vast machinery of the locks, the necessary amount of dredging, the preservation of the banks of the canal from slides, the operation and the maintenance of the equipment of the railway will all require a force, not of course, to be likened in any way to the present organization for construction, but a skilled body of men who can keep in a state of usefulness this great instrument of commerce.

Such an organization makes it easy to include within its functions the furnishing of drydock, fuel, repairs and supply facilities to the trade of the world. These will be more essential at the isthmus of Panama than they are at Port Said or Suez, because there are no depots for coal, supplies and other commercial necessities within thousands of miles of the isthmus.

Another important reason why these ancillary duties may well be undertaken by the government is the opportunity for discrimination between patrons of the canal that is offered where private concessions are granted for the furnishing of these facilities. Nothing would create greater prejudice against the canal than the suspicion that certain lines of traffic were favored in the furnishing of supplies or that the supplies were controlled by any large interest that might have a motive for increasing the cost of the use of the canal.

I cannot close this reference to the canal without suggesting as a wise amendment to the interstate-commerce law a provision prohibiting interstate commerce railroads from owning or controlling ships engaged in the trade through the Panama canal. I believe such a provision may be needed to save to the people of the United States the benefits of the competition in trade between the eastern and western seaboard which this canal was constructed to secure.

DEPARTMENT OF JUSTICE.

President Favors Increasing Pay of Judges to \$17,000 a Year.

The duties of the department of justice have been greatly increased by legislation of congress enacted in the interest of the general welfare of the people and extending its activities into avenues plainly within its constitutional jurisdiction, but which it has not been thought wise or necessary for the general government heretofore to occupy.

I am glad to say that under the appropriations made for the department the attorney general has so improved its organization that a vast amount of litigation of a civil and criminal character has been disposed of during the current year. This will explain the necessity for slightly increasing the estimates for the expenses of the department.

His report shows the recoveries made on behalf of the government of duties fraudulently withheld, public lands improperly patented, fines and penalties for trespass, prosecutions and convictions under the anti-trust law and prosecutions under the interstate commerce law.

I invite especial attention to the prosecutions under the federal law of the so called "bucket shops" and of those schemes to defraud in which the use of the mail is an essential part of the fraudulent conspiracy, prosecutions which have saved ignorant and weak members of the public and are saving them hundreds of millions of dollars.

The violations of the anti-trust law present perhaps the most important litigation before the department, and the number of cases filed shows the activity of the government in enforcing that statute.

National Incorporation.

In a special message last year I brought to the attention of congress the propriety and wisdom of enacting a general law providing for the incorporation of industrial and other companies engaged in interstate commerce, and I renew my recommendation in that behalf.

Claims.

I invite the attention of congress to the great number of claims which, at the instance of congress, have been considered by the court of claims and decided to be valid claims against the government. The delay that occurs in the payment of the money due under the claims injures the reputation of the government as an honest debtor, and I earnestly recommend that those claims which come to congress with the judgment and approval of the court of claims should be promptly paid.

Judicial Procedure.

One great crying need in the United States is cheapening the cost of litigation by simplifying judicial procedure and expediting final judgment. Under present conditions the poor man is at a woeful disadvantage in a legal contest with a corporation or a rich opponent. The necessity for the reform exists both in United States courts and in all state courts. In order to bring it about, however, it naturally falls to the general government by its example to furnish a model to all states. A legislative commission appointed by joint resolution of congress to revise the procedure in the United States courts has as yet made no report.

Under the law the supreme court of the United States has the power and is given the duty to frame the equity rules of procedure which are to obtain in the federal courts of first instance. In view of the heavy burden of pressing litigation which that court has had to carry, with one or two of its members incapacitated through ill health, it has not been able to take up problems of improving the equity procedure, which has practically remained the same since the organization of the court in 1789. It is reasonable to expect that with all the vacancies upon the court filled it will take up the question of cheapening and simplifying the procedure in equity in the courts of the United States. The equity business is much the more important in the federal courts, and I may add, much more expensive.

I am strongly convinced that the best method of improving judicial procedure at law is to empower the supreme court to do it through the medium of the rules of the court, as in equity. This is the way in which it has been done in England, and thoroughly done. The simplicity and expedition of procedure in the English courts today make a model for the reform of other systems.

Several of the lord chancellors of England and of the chief justices have left their lasting impress upon the history of their country by their constructive ability in proposing and securing the passage of remedial legislation effecting law reforms. I cannot conceive any higher duty than that the supreme court could perform than in leading the way to a simplification of procedure in the United States courts.

Unnecessary Appeals.

No man ought to have as a matter of right a review of his case by the

supreme court. He should be satisfied by one hearing before a court of first instance and one review by a court of appeals. The proper and chief usefulness of the supreme court, and especially of the supreme court of the United States, is in the cases which come before it so to expound the law, and especially the fundamental law—the constitution—as to furnish precedents for the inferior courts in future litigation and for the executive officers in the construction of statutes and the performance of their legal duties.

Therefore any provisions for review of cases by the supreme court that cast upon that court the duty of passing on questions of evidence and the construction of particular forms of instruments, like indictments or wills or contracts, decisions not of general application or importance, merely clog and burden the court and render more difficult its higher function, which makes it so important a part of the framework of our government. The supreme court is now carrying an unnecessary burden of appeals of this kind, and I earnestly urge that it be removed.

The statutes respecting the review by the supreme court of the United States of decisions of the court of appeals of the District of Columbia ought to be so amended as to place that court in the same position with respect to the review of its decisions as that of the various United States circuit courts of appeals. The act of March 2, 1907, authorizing appeals by the government from certain judgments in criminal cases where the defendant has not been put in jeopardy within the meaning of the constitution should be amended so that such appeals should be taken to the circuit courts of appeals instead of to the supreme court in all cases except those involving the construction of the constitution or the constitutionality of a statute, with the same power in the supreme court to review on certiorari as is now exercised by that court over determinations of the several circuit courts of appeals. Appeals from the United States court in Porto Rico should also run to the circuit courts of appeals of the third circuit instead of to the supreme court.

These suggested changes would, I am advised, relieve the supreme court of the consideration of about eighty cases annually and would be in harmony with the theory of review which led to the establishment of the circuit courts of appeals and which I have stated above.

The American Bar association has had before it the question of reducing the burden of litigation involved in reversals on review and new trials or rehearings and in frivolous appeals in habeas corpus and criminal cases. Their recommendations have been embodied in bills now pending in congress. The recommendations are not radical, but they will accomplish much if adopted into law, and I earnestly recommend the passage of the bills embodying them.

Injunction Bill.

I wish to renew my urgent recommendation made in my last annual message in favor of the passage of a law which shall regulate the issuing of injunctions in equity without notice in accordance with the best practice now in vogue in the courts of the United States.

I regard this of especial importance, first, because it has been promised, and second, because it will deprive those who now complain of certain alleged abuses in the improper issuing of injunctions without notice of any real ground for further amendment and will take away all semblance of support for the extremely radical legislation they propose, which will sap the foundations of judicial power and legalize that cruel social instrument, the secondary boycott.

Judicial Salaries.

I further recommend to congress the passage of the bill now pending for the increase in the salaries of the federal judges, by which the chief justice of the supreme court shall receive \$17,500 and the associate justices \$17,000, the circuit judges constituting the circuit court of appeals shall receive \$10,000 and the district judges \$9,000. These judges exercise a wide jurisdiction, and their duties require of them a profound knowledge of the law, great ability in the dispatch of business and care and efficiency in the exercise of their jurisdiction so as to avoid conflict whenever possible between the federal and the state courts.

The positions they occupy ought to be filled by men who have shown the greatest ability in their professional work at the bar, and it is the poorest economy possible for the government to pay salaries so low for judicial service as not to be able to command the best talent of the legal profession in every part of the country.

The cost of living is such, especially in the large cities, that even the salaries fixed in the proposed bill will enable the incumbents to accumulate little if anything to support their families after their death. Nothing is so important to the preservation of our country and its beloved institutions as the maintenance of the independence of the judiciary, and next to the life tenure an adequate salary is the most material contribution to the maintenance of independence on the part of our judges.

POSTOFFICE DEPARTMENT.

Postal Savings Banks—Question of Deficit—Franking Abuses.

At its last session congress made provision for the establishment of savings banks by the postoffice department of this government, by which, under the general control of trustees consisting of the postmaster general, the secretary of the treasury and the attorney general, the system could be begun in a few cities and towns and enlarged to cover within its operations as many cities and towns and as large a part of the country as seemed wise.

The initiation and establishment of such a system have required a great deal of study on the part of the experts in the postoffice and treasury departments, but a system has now been de-

vised which is believed to be more economical and simpler in its operation than any similar system abroad. Arrangements have been perfected so that savings banks will be opened in some cities and towns on the 1st of January, and there will be a gradual extension of the benefits of the plan to the rest of the country.

Wiping Out of Postal Deficit.

As I have said, the postoffice department is a great business department, and I am glad to note the fact that under its present management principles of business economy and efficiency are being applied. For many years there has been a deficit in the operations of the postoffice department which has been met by appropriation from the treasury. The appropriation estimated for last year from the treasury over and above the receipts of the department was \$17,500,000.

I am glad to record the fact that of that \$17,500,000 estimated for \$11,500,000 were saved and returned to the treasury. The personal efforts of the postmaster general secured the effective co-operation of the thousands of postmasters and other postal officers throughout the country in carrying out his plans of reorganization and retrenchment. The result is that the postmaster general has been able to make his estimate of expenses for the present year so low as to keep within the amount the postal service is expected to earn. It is gratifying to report that the reduction in the deficit has been accomplished without any curtailment of postal facilities. On the contrary, the service has been greatly extended during the year in all its branches. A principle which the postmaster general has recommended and sought to have enforced in respect to all appointments has been that those appointees who have rendered good service should be reappointed.

This has greatly strengthened the interest of postmasters throughout the country in maintaining efficiency and economy in their offices, because they believed generally that this would secure for them a further tenure.

Extension of the Classified Service.

Upon the recommendation of the postmaster general I have included in the classified service all assistant postmasters, and I believe that this giving a secure tenure to those who are the most important subordinates of postmasters will add much to the efficiency of their offices and an economical administration. A large number of the fourth class postmasters are now in the classified service.

I think it would be wise to put in the classified service the first, second and third class postmasters. It is more logical to do this than to classify the fourth class postmasters, for the reason that the fourth class postoffices are invariably small and the postmasters are necessarily men who must combine some other business with the postmastership, whereas the first, second and third class postmasters are paid a sufficient amount to justify the requirement that they shall have no other business and that they shall devote their attention to their postoffice duties.

To classify first, second and third class postmasters would require the passage of an act changing the method of their appointment so as to take away the necessity for the advice and consent of the senate. I am aware that this is inviting from the senate a concession in respect to its quasi executive power that is considerable, but I believe it to be in the interest of good administration and efficiency of service.

To make this change would take the postmasters out of politics, would relieve congressmen who now are burdened with the necessity of making recommendations for these places of a responsibility that must be irksome and can create nothing but trouble, and it would result in securing greater attention to business, greater fidelity and consequently greater economy and efficiency in the postoffices which they conduct.

The Franking Privilege.

The unrestricted manner in which the franking privilege is now being used by the several federal services and by congress has laid it open to serious abuses, a fact clearly established through investigations recently instituted by the department. While it has been impossible without a better control of franking to determine the exact expense to the government of this practice, there can be no doubt that it annually reaches into the millions.

It is believed that many abuses of the franking system could be prevented and consequently a marked economy effected by supplying through the agencies of the postal service special official envelopes and stamps for the free mail of the government, all such envelopes and stamps to be issued on requisition to the various branches of the federal service requiring them and such records as to be kept of all official stamp supplies as will enable the postoffice department to maintain a proper volume of free government mail.

As the first step in the direction of this reform special stamps and stamp envelopes have been provided for use instead of franking in the free transmission of the official mail resulting from the business of the new postal savings system. By properly recording the issuance of such stamps and envelopes accurate records can be kept of the cost to the government of handling the postal savings mail, which is certain to become an important item of expense and one that should be separately determined.

In keeping with this plan it is hoped that congress will authorize the substitution of special official stamps and stamped envelopes for the various forms of franking now used to carry free of postage the vast volume of departmental and congressional mail matter. During the past year methods of accounting similar to those employed in the most progressive of our business establishments have been introduced in the postal service, and nothing has so impeded the department's plans in this regard as the impossibility of determining with any exactness how far the various expenses of the postal service are increased by the present unrestricted use of the franking privilege. It is believed that the

adoption of a more exact method of dealing with this problem as proposed will prove to be of tremendous advantage in the work of placing the postal service on a strictly business-like basis.

Second Class Mail Matter.

In my last annual message I invited the attention of congress to the inadequacy of the postal rate imposed upon second class mail matter in so far as that includes magazines and showed by figures prepared by experts of the postoffice department that the government was rendering a service to the magazines costing many millions in excess of the compensation paid.

An answer was attempted to this by the representatives of the magazines, and a reply was filed to this answer by the postoffice department. The utter inadequacy of the answer, considered in the light of the reply of the postoffice department, I think must appeal to any fair minded person. Whether the answer was all that could be said in behalf of the magazines is another question.

I agree that the question is one of fact, but I insist that if the fact is as the experts of the postoffice department show, that we are furnishing to the owners of magazines a service worth millions more than they pay for it, then justice requires that the rate should be increased. The increase in the receipts of the department resulting from this change may be devoted to increasing the usefulness of the department in establishing a parcels post and in reducing the cost of first class postage to 1 cent.

It has been said by the postmaster general that a fair adjustment might be made under which the advertising part of the magazine should be charged for at a different and higher rate from that of the reading matter. This would relieve many useful magazines that are not circulated at a profit and would not shut them out from the use of the mails by a prohibitory rate.

Parcels Post.

With respect to the parcels post I respectfully recommend its adoption on all rural delivery routes and that eleven pounds, the international limit, be made the limit of carriage in such post. The same argument is made against the parcels post that was made against the postal savings bank—that it is introducing the government into a business which ought to be conducted by private persons and is paternalism.

The postoffice department has a great plant and a great organization, reaching into the most remote hamlet of the United States, and with this machinery it is able to do a great many things economically that if a new organization were necessary it would be impossible to do without extravagant expenditure. That is the reason why the postal savings bank can be carried on at a small additional cost and why it is possible to incorporate at a very inconsiderable expense a parcels post in the rural delivery system.

THE NAVY DEPARTMENT.

Wants Naval Station at Guantanamo—Honors For Peary.

In the last annual report of the secretary of the navy and in my annual message attention was called to the new detail of officers in the navy department by which officers of flag rank were assigned to duty as aids to the secretary in respect to naval operations. This change was a substantial compliance with the recommendation of the commission on naval reorganization, headed by Mr. Justice Moody, and submitted to President Roosevelt on Feb. 26, 1909.

Through the advice of this committee of line officers the secretary is able to bring about a proper co-ordination of all the branches of the naval department with greater military efficiency. The secretary of the navy recommends that this new organization be recognized by legislation and thus made permanent. I concur in the recommendation.

The secretary, in view of the conclusions of a recent court of inquiry on certain phases of marine corps administration, recommends that the major general commandant of the marine corps be appointed for a four year term and that officers of the adjutant and inspector's department be detailed from the line.

He also asks for legislation to improve the conditions now existing in the personnel of officers of the navy, particularly with regard to the age and experience of flag officers and captains, and points out that it is essential to the highest efficiency of the navy that the age of our officers be reduced and that flag officers particularly should gain proper experience as flag officers in order to enable them to properly command fleets. I concur in the secretary's recommendations.

Covering of Naval Supply Fund Into Treasury.

I commend to your attention the report of the secretary on the change in the system of cost accounting in navy yards and also to the history of the naval supply fund and the present conditions existing in regard to that matter. Under previous practice and what now seems to have been an erroneous construction of the law the supply fund of the navy was increased from \$2,700,000 to something over \$14,000,000, and a system of accounting was introduced which prevented the striking of a proper balance and a knowledge of the exact cost of maintaining the naval establishment.

The system has now been abandoned and a naval supply account established by law July 1, 1910. The naval supply fund of \$2,700,000 is now on deposit in the treasury to the credit of the department. The secretary recommends that the naval supply account be made permanent by law and that the \$2,700,000 of the naval supply fund be covered into the treasury as unnecessary, and I ask for legislative authority to do this. This sum when covered into the treasury will be really a reduction in recorded naval cost for this year.

The estimates of the navy department are \$5,000,000 less than the appropriations for the same purpose last

year, and included in this is the building program of the same amount as that submitted for your consideration last year. It is merely carrying out the plan of building two battleships a year, with a few needed auxiliary vessels. I earnestly hope that this program will be adopted.

Abolition of Navy Yards.

The secretary of the navy has given personal examination to every navy yard and has studied the uses of the navy yards with reference to the necessities of our fleet. With a fleet considerably less than half the size of that of the British navy, we have shipyards more than double the number, and there are several of these shipyards, expensively equipped with modern machinery, which after investigation the secretary of the navy believes to be entirely useless for naval purposes. He asks authority to abandon certain of them and to move their machinery to other places where it can be made of use.

In making these recommendations the secretary is following directly along progressive lines which have been adopted in our great commercial and manufacturing consolidations in this country—that is, of dismantling unnecessary and inadequate plants and discontinuing their existence where it has been demonstrated that it is unprofitable to continue their maintenance at an expense not commensurate to their product.

The secretary points out that the most important naval base in the West Indies is Guantanamo. In the south-eastern part of Cuba. Its geographical situation is admirably adapted to protect the commercial paths to the Panama canal, and he shows that by the expenditure of less than half a million dollars, with the machinery which he shall take from other navy yards, he can create a naval station at Guantanamo of sufficient size and equipment to serve the purpose of an emergency naval base. I earnestly join in the recommendation that he be given the authority which he asks.

I am quite aware that such action is likely to arouse local opposition, but I conceive it to be axiomatic that in legislation in the interest of the navy and for the general protection of the country by the navy mere local pride or pecuniary interest in the establishment of a navy yard or station ought to play no part. The recommendation of the secretary is based upon the judgment of impartial naval officers entirely uninfluenced by any geographical or sectional considerations.

I unite with the secretary in the recommendation that an appropriation be made to construct a suitable crypt at Annapolis for the custody of the remains of John Paul Jones.

Peary.

The complete success of our country in arctic exploration should not remain unnoticed. For centuries there has been friendly rivalry in this field of effort between the foremost nations and between the bravest and most accomplished men. Expeditions to the unknown north have been encouraged by enlightened governments, and deserved honors have been granted to the daring men who have conducted them.

The unparalleled achievement of Peary in reaching the north pole April 6, 1909, approved by critical examination of the most expert scientists, has added to the distinction of our navy, to which he belongs, and reflects credit upon his country. His unique success has received generous acknowledgment from scientific bodies and institutions of learning in Europe and America. I recommend fitting recognition by congress of the great achievement of Robert Edwin Peary.

DEPARTMENT OF THE INTERIOR.

Appeals to Court in Land Cases.

Conservation and Reclamation.

The secretary of the interior recommends a change of the law in respect to the procedure in adjudicating claims for lands by which appeals can be taken from the decisions of the department to the court of appeals of the District of Columbia for a judicial consideration of the rights of the claimant. This change finds complete analogy in the present provision for appeals from the decisions of the commissioner of patents. The judgments of the court in such cases would be of decisive value to land claimants generally and to the department of the interior in the administration of the law, would enable claimants to bring into court the final consideration of issues as to the title to government land and would, I think, obviate a good deal of the subsequent litigation that now arises in our western courts.

The bill is pending, I believe, in the house, having been favorably reported from the committee on public lands, and I recommend its enactment.

One of the difficulties in the interior department and in the land office has been the delays attendant upon the consideration by the land office and the secretary of the interior of claims for patents of public lands to individuals. I am glad to say that under the recent appropriations of the congress and the earnest efforts of the secretary and his subordinates these arrears have been disposed of and the work of the department has been brought more nearly up to date in respect to the pending business than ever before in its history. Economies have been effected where possible without legislative assistance, and these are shown in the reduced estimates for the expenses of the department during the current fiscal year and during the year to come.

Conservation.

The subject of the conservation of the public domain has commanded the attention of the people within the last two or three years.

Agricultural Lands.

There is no need for radical reform in the methods of disposing of what are really agricultural lands. The present laws have worked well. The enlarged homestead law has encouraged the successful farming of lands in the semiarid regions.

Reclamation.

The total sum already accumulated in the fund provided by the act for